NOTICE: This opinion is subject to formal revision before publication in the bound volumes of NLRB decisions. Readers are requested to notify the Executive Secretary, National Labor Relations Board, Washington, D.C. 20570, of any typographical or other formal errors so that corrections can be included in the bound volumes.

Laurel Bay Health & Rehabilitation Center *and* **SEIU 1199 New Jersey Health Care Union.** Cases 22–CA–27192, 22–CA–27324, 22–CA–27500, and 22–CA–27779

October 15, 2010

DECISION AND ORDER

By Chairman Liebman and Members Becker and hayes

On September 30, 2008, the two sitting members of the Board issued a Decision and Order in this proceeding, which is reported at 353 NLRB 232 (2008). Thereafter, the Respondent filed a petition for review in the United States Court of Appeals for the District of Columbia Circuit, and the General Counsel filed a crossapplication for enforcement. On June 17, 2010, the United States Supreme Court issued its decision in *New Process Steel, L.P. v. NLRB*, 130 S. Ct. 2635, holding that under Section 3(b) of the Act, in order to exercise the delegated authority of the Board, a delegee group of at least three members must be maintained. Thereafter, the court of appeals remanded this case for further proceedings consistent with the Supreme Court's decision.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.²

The Board has considered the judge's decision and the record in light of the exceptions and brief and has decided to affirm the judge's rulings, findings, and conclusions and to adopt the recommended Order to the extent and for the reasons stated in the decision reported at 353 NLRB 232, which is incorporated herein by reference.³

Dated, Washington, D.C. October 15, 2010

Wilma B. Liebman,	Chairman
Craig Becker,	Member
Brian E. Hayes,	Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

¹ Effective midnight December 28, 2007, Members Liebman, Schaumber, Kirsanow, and Walsh delegated to Members Liebman, Schaumber, and Kirsanow, as a three-member group, all of the powers of the National Labor Relations Board in anticipation of the expiration of the terms of Members Kirsanow and Walsh on December 31, 2007. Thereafter, pursuant to this delegation, the two sitting members issued decisions and orders in unfair labor practice and representation cases.

² Consistent with the Board's general practice in cases remanded from the courts of appeals, and for reasons of administrative economy, the panel includes the remaining member who participated in the original decision. Furthermore, under the Board's standard procedures applicable to all cases assigned to a panel, the Board Members not assigned to the panel had the opportunity to participate in the adjudication of this case at any time up to the issuance of this decision. However, Member Pearce is recused, and has taken no part in the consideration of this case.

³ In adopting the judge's finding that the Respondent's issuance of merit bonuses violated Sec. 8(a)(5), Member Hayes joins former Member Schaumber in not relying on the judge's alternative analysis under *McClatchy Newspapers*, 321 NLRB 1386, 1390 (1996), enfd. 131 F.3d 1026 (D.C. Cir. 1997), cert. denied 524 U.S. 937 (1998).